

Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NORTHSHORE SHEET METAL,
INC.,

Plaintiff,

v.

SHEET METAL WORKERS
INTERNATIONAL ASSOCIATION,
LOCAL 66,

Defendant.

Case No. 2:15-cv-01349 MJP

**DECLARATION OF
CHRISTOPHER L. HILGENFELD IN
SUPPORT OF PLAINTIFF'S MOTION TO
COMPEL DISCOVERY**

Noted on Motion Calendar: March 11, 2016

I, CHRISTOPHER L. HILGENFELD, declare as follows:

1. I am over the age of eighteen (18) years and I am competent to testify if called upon to do so.

2. I am an attorney at Davis Grimm Payne & Marra, counsel of record for Plaintiff Northshore Sheet Metal, Inc. ("Northshore" or "Defendant"), admitted to practice in the U.S. District Court, Western District of Washington. I am the lead attorney

1 representing Northshore Sheet Metal, Inc. in the above-captioned matter, and I make this
2 declaration based upon my personal knowledge and review of the files and records herein.

3 3. The Parties on February 19, 2016 participated in the 26(f) conference. I
4 spoke with Margaret Burnham, Sheet Metal Workers Local 66 attorney, via telephone. We
5 went through the February 9, 2016 letter regarding the Union's discovery responses. I
6 informed Ms. Burnham that we knew the Union had not fully responded because I had
7 correspondence that was not produced. Ms. Burnham agreed to supplement her responses.

8 4. Ms. Burnham also stated that the Union would not provide the electronic
9 discovery. She knew that some of the information was relevant to Plaintiff's request;
10 however, the Union considered the request overly burdensome. There was about 10,000
11 emails and 7,000 text messages. I informed her that I had attempted to narrow the request as
12 narrowly as I could, and I did not have any ideas on how to narrow it further and still obtain
13 the information required for the lawsuit. I further informed her that I would consider any
14 ideas that she had. She stated she would discuss it with co-counsel and get back to me if
15 they had any ideas. As of the date of this filing, the Union has not presented any ideas on
16 lessening the burden, while still providing the necessary information.

17 5. We next discussed the Union's self-imposed limitation on the lawsuit to three
18 construction sites: Meridian Health Center, Chambers Creek Waste Water and the Bellevue
19 Square project. I explained that both causes of action involved the entirety of the strike, and
20 it was necessary to have all information related to the other construction sites picketed by
21 the Union. Ms. Burnham disagreed.

22 6. Ms. Burnham agreed to supplement her responses by February 24, 2016 at
23 noon. The Union was not going to agree to provide the electronic discovery or information
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1 beyond the three construction sites. She did supplement her responses. She provided Union
2 meeting minutes and sign-up sheets. She also provided 8 pieces of correspondence. This
3 correspondence had previously been provided. *See* Exh. 9.

4 7. Attached hereto as **Exhibit 1** is a true and correct copy of the Plaintiff's
5 discovery requests.

6 8. Attached hereto as **Exhibit 2** is a true and correct copy of Defendant's
7 responses to Plaintiff's discovery requests.

8 9. On February 9, 2016, I detailed the deficiencies of Defendant's discovery
9 responses. Attached hereto as **Exhibit 3** is a true and correct copy of that letter.

10 10. On December 16, 2015, I informed the Union's attorney, Margaret Burnham,
11 that there were potential electronic discovery issues related to this case. It had come to my
12 attention that the Union employees, officers, agents, representatives and members often
13 communicated with one another via email and text message. I wanted to ensure that the
14 electronic information was being properly preserved. Attached hereto as **Exhibit 4** is a true
15 and correct copy of that letter.
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17 11. Attached hereto as **Exhibit 5** is a true and correct copy of an email to
18 Margaret Burnham further explaining the purpose of the December 16, 2015 letter

19 12. Attached hereto as **Exhibit 6** is a true and correct copy of Defendant's Initial
20 Disclosures, dated November 17, 2015.

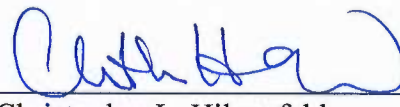
21 13. Attached hereto as **Exhibit 7** is a true and correct copy of a letter sent from
22 Tim Carter, Local 66 Business Manager, to the Northshore employees. I received this copy
23 through my informal discovery. Neither this document, nor any document like it, was not
24 produced by the Union.
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1 14. Attached hereto as **Exhibit 8** is a true and correct copy of a letter from the
2 Tim Carter, Local 66 Business Manager, to Bayley Construction concerning Northshore and
3 the Union's strike action. I received this letter through informal discovery. Neither this
4 letter, nor any letter like it, was produced by the Union.

5 15. Attached as **Exhibit 9** is a true and correct copy of the correspondence from
6 the Union to individuals or entities in response to Plaintiff's discovery requests. UN 00931
7 – UN 009388. The supplemental materials provided by the Union on February 24, 2016
8 duplicated these documents.

9 I declare under penalty of perjury under the laws of the State of Washington and the
10 United States that the foregoing statements are true and accurate.

11 Dated at Seattle, Washington this 25 day of FEBRUARY, 2016.

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15 Christopher L. Hilgenfeld
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